

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORIGINAL SIDE JURISDICTION

SUMMONS FOR JUDGMENT NO. 603 OF 2002
IN
SUMMARY SUIT NO. 132 OF 2000

Bank of India .. Plaintiffs.
vs.
M/s. Mithul Enterprises & Ors. .. Defendants.

Mr. S.N. Fadia, i/b. N.J. Fadia, Advocate for the
Plaintiff.
Ms. Rohini Kotian, Advocate for the Defendants.

CORAM: D.G. DESHPANDE, J.

DATE : 22ND SEPTEMBER, 2004.

P.C. :-

1. This is a Bank suit and Summons for Judgment is against Defendant no.3. Claim is about Rs.1,25,000/- and odd. Defendant has executed Exhibit-B Deed of Guarantee agreeing thereby to pay the amount within two days after the demand is made. It is dated 21st September, 1996. Notice of demand was given on 29th September, 1999 and within three months the suit is filed. Therefore the objection about limitation raised by the Defendant does not survive.

2. Secondly, it is contended by the Advocate of Defendant no. 2 that the Bank allowed the Borrower to part with hypothecated goods and this does not show any collusion or negligence on the part of the Bank. Even that will not absolve the Defendant no.3. There is no defence. Therefore conditional leave to defend upon the Defendant's depositing Rs. 1 Lakh within 5 weeks is granted.
